

REMARKS

Claims 1-19 are pending in the present application, of which claims 1, 8, 12 and 16 are independent. No amendments have been made. Applicants believe that the present application is in condition for allowance, which prompt and favorable action is respectfully requested.

I. REJECTION UNDER 35 U.S.C. §103

The Examiner rejected claims 1-19 under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 6,788,138 issued to Suzuki (hereinafter "Suzuki") in view of U.S. Patent Application Publication No. 2002/0137535 issued to Hunzinger (hereinafter "Hunzinger"). This rejection is respectfully traversed in its entirety.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim elements. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. (MPEP 2143)

Suzuki discusses a transmission power control circuit with a control section to control the transmission power to a designated level of transmission power (col. 2, lines 30-40). A power control section generates a control voltage V_c based on a detection voltage V_{DET} generated by a detection circuit. The gain of a variable gain amplifier is set in accordance to the control voltage V_c , thereby controlling the transmission power (col. 6, lines 44-65). Here, a close loop control is performed when the transmission power is within a measurable range of detecting circuit and an open loop control is performed when the transmission power is outside a measurable range of the detection circuit (col. 6, line 66 to col. 7, line 14).

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Therefore, Suzuki teaches a close loop and open loop power control to control the level of transmission power as closely as possible to the designated level of transmission level. There is nothing in Suzuki to even suggest a power control based on a wide-band interference. In fact Suzuki does not even mention any sort of interference.

With respect to independent claims 1, 8, 12 and 16, the Examiner admits that Suzuki does not disclose the limitation "determining a wide-band interference," but relied upon Hunzinger to allegedly cure this deficiency.

Hunzinger teaches using an open-loop power control during a connection resucure procedure (page 1, paragraph 0003). It merely mentions that, in CDMA systems, signals can be received in the presence of wide-band interference, thereby needing error correction (page 2, paragraph 0015).

As such, Applicants respectfully submit that there is no teaching or suggestion within the art to make the combination proposed by the Examiner. As aptly stated by the Federal Circuit in In re Kotzab, 2000 217 F.3d 1365; 55 USPQ 2d 1313, 1316 (Fed. Cir. 2000):

Most if not all inventions arise from a combination of old elements. Thus, every element of a claimed invention may often be found in the prior art. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant.

In this instance, the only motivation cited by the Examiner for combining the features of the cited references was to achieve enhancing the interference detection for quality signal reception in the CDMA system. This is insufficient, as a matter of law, because it does not rely on the teachings of the references. Particularly, Hunzinger teaches performing open-loop power control during a rescue. It does not even mention interference detection in relation to power

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control. Therefore, it would not have been obvious or desirable to one having ordinary skill in the art to make the specific combination of the closed-loop power control and determining a wide-band interference.

Additionally, even if the references could be combined, which Applicants maintain that they cannot, the resulting combination fails to teach or suggest the claimed subject matter as set forth in independent claims 1, 8, 12 and 16. Specifically Suzuki discloses a close-loop power control and Hunzinger discloses a wide-band interference. However, neither Suzuki nor Hunzinger, separately or combined, teach or suggest enabling [or disabling] closed-loop power control in response to detecting a wide-band interference above [or below] a threshold.

Accordingly, Applicants respectfully submit that the Examiner has failed to set forth a prima facie case of obviousness and respectfully requests that the rejections of independent claims 1, 8, 12 and 16 be withdrawn.

Also, claims 2-7, 9-11, 13-15 and 17-19 depend from and include all the elements cited in the independent claims 1, 8, 12, and 16, respectively. Therefore, Applicants submit that these claims are believed to be allowable based on their dependency from an allowable base claim as well as other novel features included therein.

For at least the foregoing reasons, Applicants respectfully request a withdrawal of the rejection under 35 U.S.C. §103.

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CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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